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Reply to Office Action of September 27, 2004

C. REMARKS

The Examiner restricts the application to one of four claim groupings. Applicants traverse the requirement by the Examiner to elect one grouping, however would elect group I for examination in compliance with 37 CFR 1.143.

First, in paragraph 1, the Examiner specifies group I as containing claims 1-12 which are "drawn to processing caller profiles and their distribution. In particular the processing involves authentication, verifying, and networking classified in class 379 and subclasses 88.02, 88.12, 211.02, 212.01, 265.01, 265.02, and 265.12." [Action, p. 2] In contrast, the Examiner specifies group II as containing claims 13-25 which are "drawn to recording of caller information and placing callers on hold. The recording and holding are classified in class 379, subclasses 68, 85, 88.25-88.28, 162, 201.01-201.05, 201.12, 265.03, 295.06, and 265.08." [Action, p. 2] Further, the Examiner specifies group III as containing claims 26-44 which are drawn to adjusting caller positions within hold queues. [Action, p. 2] Moreover, the Examiner specifies group IV as containing claims 45-50 which are subcombinations of groups II and III. [Action, p. 2]

Next, in paragraph 2, the Examiner concludes that groups I, II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed or capable of use together and they have different modes of operations, different functions, or different effects. MPEP 806.04, 808.01. The Examiner concludes, based on the classifications of the groups that the different inventions are unrelated because the disclosure teaches that they can be operated independent of each other.

In general, Applicants assert that the Examiner has not grouped the claims into invention groups that enable Applicants to respond to the Examiner's assertion that "based on the classifications of the groups the different inventions are unrelated because the disclosure teaches that they can be operated independent of each other." As will be discussed in full below, claim sets of method, system, and program product claims are divided among multiple groups in such a manner that the claims included in groups II, III and IV do not uniformly fit the grouping classifications assigned by the Examiner. Applicants respectfully request that the Examiner properly distribute the claims among groups in view of the following arguments so that
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Applicants can then respond to the Examiner's assertion that the disclosure teaches that the invention groupings can be operated independent of each other.

First, in traversing the election requirement, Applicants respectfully assert that claims 13-16 should be included in group I, rather than in group II as classified by the Examiner.

Applicants note that independent claims 1 and 6 in group I include elements of "receiving a request at a central server system accessible from a telecommunications network for a caller profile according to an authenticated voice identifier of a caller currently on hold within a call center" and "distributing the caller profile to the call center according to the authenticated voice identifier, where the call center can specify output of services to the caller according to the caller profile, and where the caller profile is accessible across multiple call centers according to the voice identifier, for specifying output of service." Independent claim 13 is a computer program product claim mirroring the elements taught in independent method and system claims 1 and 6. Claim 13 more closely reflects the classification of group I "processing" and "distribution", rather than the classification of group II "recording and placing callers on hold". Therefore, Applicants respectfully assert that if the claims are to be grouped into separate inventions, computer program product claim 13 and dependent claims 14-16 should be included in group I, rather than group II.

In addition, in traversing the election requirement, Applicants respectfully assert that claims 17-21 should be included in group I, rather than in group II as classified by the Examiner. Applicants note that independent method, system, and computer program product claims 17, 19, and 21 include the elements of "receiving a request at the central server system accessible from a telecommunications network for a caller profile according to an authenticated voice identifier of a caller currently on hold within a call center, wherein the request comprises an identifier for the call center", "determining a subscription status of the call center from among multiple call center subscriptions according to the identifier for the call center," and "only distributing a subscribed to portion of the caller profile to the call center according to the subscription status." Thus, independent method, system, and computer program product claims 17, 19, and 21 are drawn to distributing caller profile information to call centers where callers are on hold based on a subscription to caller profile information held by the call center requesting the caller profile.
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Claims 17, 19, and 21 are not drawn to "recording" and "holding", but instead mirror the classification of claims 1-12, of "processing" and "distributing". Applicants respectfully assert that if the claims are to be grouped into separate inventions, claims 17-21 fit within the bounds of the Examiner's classification of group I and not within the Examiner's classification of group II.

Further, in traversing the election requirement, Applicants respectfully assert that claims 30-32 should be included in group II, rather than in group III as classified by the Examiner. As previously described, the Examiner specifies group II as focusing on "recording of caller information" and "placing callers on hold". [Action, p. 2] The Examiner specifies group III as drawn to "placing callers in queue" where "the callers positions in the queues are adjusted based on parameters." [Action, p. 2] Applicants note that independent method and system claims 22 and 26, included in group II, include the elements of "receiving a call from a caller, where the identity of the caller is authenticated by voice authentication", "placing the call in a hold queue", "receiving a caller profile associated with the authenticated identity of the caller", and "specifying services available to the caller according to the caller profile with the caller is on hold in the hold queue." Thus, claims 22 and 26 focus on the specifying services to a caller on hold based on a caller profile. Independent claims 30 is a computer program product claim that mirrors the elements of independent method and system claims 22 and 25. In addition, claim 30 more closely reflects the classification of group II "recording of caller information" and "placing callers on hold", rather than the classification of group III "adjusting caller queue positions". Thus, Applicants respectfully assert that if the claims are to be grouped into separate inventions, independent computer program product claim 30 and dependent claims 31-32 should be included in group II, rather than in group III.

Moreover, in traversing the election requirement, Applicants respectfully assert that claims 45-50 are not subcombinations of groups II and III, but should be included in group III. Claim 45 is an independent computer program product claim that mirrors independent claims 33 and 39, which are included in group III and dependent claims 46-50 mirror the dependent method claims 34-38 and dependent system claims 40-44. If independent claim 45 and dependent claims 46-50 are subcombinations of groups II and III, then Applicants respectfully

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assert that groups II and III would need to be a single group. However, claims 45-50 most closely resemble the classification for group III.

In paragraph 3, the Examiner states that "because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications and subject matter, the search required for each invention is not required for the other. Therefore restriction for examination purposes as indicated above is proper." [Action, p. 3] As discussed above, Applicants respectfully assert that the Examiner has not properly grouped the inventions, if grouping is even necessary, and therefore, Applicants respectfully assert that a determination that the search required for each invention is not required for the other cannot be determined from the Examiner's classifications.

In paragraph 4, the Examiner notes that a telephone call was made to Applicants representative, Mark Walker, to request an oral election to the above restriction requirement. Applicants representative, Mark Walker declined to make an election.

In paragraph 5, the Examiner advises Applicants that for the reply to the election requirement to be complete, an election of the invention to be examined must be elected even though the requirement is traversed. 37 CFR 1.143. Applicants traverse the requirement, but provisionally elect group I to be examined.

In paragraph 6, Examiner reminds Applicant to amend the inventorship after electing claims, if needed. In the present application, inventorship has not changed as a result of the claims cancellation.

Applicants note that claim 1 is amended to clarify the claim with the insertion of "to".


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Conclusion

In view of the foregoing, Applicant respectfully requests that a corrected election requirement be issued. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

Respectfully submitted,

 on 10/27/2004
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